THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 9288 of 1996

Dated: 05.12.2006

Between:

A. Avanthi, W/o Mahesh, aged about 26 years, R/o Nallgutta, Secunderabad and others.

.... PETITIONERS

AND

The Additional Industrial Tribunal-cum-Labour Court, 1st Floor, Chandra Vihar Building, M.J. Road, Hyderabad, rep. by its Chairman and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 9288 of 1996

Order:

The petitioners, who are three in number, filed the present writ petition challenging the awards passed by the Labour Court in I.D. No. 610 of 1993, dated 22.12.1994, I.D. No. 613 of 1993, dated 26.12.1994 and I.D. No. 650 of 1993, dated 28.12.1994 respectively, rejecting the claim of the petitioners for reinstatement into service.

The case of the petitioners, in brief, is that in the year 1986, when the N.G.Os. of the 2nd respondent-Hospital went on strike, they were appointed by the 2nd respondent-Hospital and they worked for a few days on *ad hoc* basis on daily wages, and after the strike was called off by the N.G.Os, their services were terminated. Thereafter, they made several representations requesting the 2nd respondent-Hospital to consider their cases for regular appointment/absorption by giving preferential appointment over others as per G.O. Ms. No. 69, dated 10.02.1987. Since the 2nd respondent-Hospital has not considered their cases, they raised industrial disputes in I.D. Nos. 610, 613 and 650 of 1993 respectively, seeking reinstatement with continuity of service and back wages, and the Labour Court, by reason of the awards impugned herein, rejected their claims. Aggrieved by the same, the petitioners filed the present writ petition.

Heard the learned counsel for the petitioners and the learned Government Pleader for Labour and perused the awards of the Labour

Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned awards of the Labour Court, are to be examined.

Before the Labour Court, the petitioners themselves were examined as W.W.1 and got marked Ex.W1 Certificates, and on behalf of the 2nd respondent-Hospital, the Law Secretary as well as the Superintendent of the 2nd respondent-Hospital were examined as M.Ws.1 and 2 and got marked Exs.M1 to M5 respectively. The Labour Court, on proper appreciation of the entire material and evidence on record, having found that since the petitioners did not work continuously for a period of 240 days in a year and they were appointed for specific purpose and worked for a few days during the strike period and their services were terminated soon after the purpose is over, their removal from service do not amounts to retrenchment, and held that the dispute raised by the petitioners is not maintainable as per the provisions of Section 2(oo)(bb) of the Industrial Disputes Act, 1947. The Labour Court also held that since the petitioners failed to prove that the 2nd respondent-Hospital employed anybody till now after their services were terminated, G.O. Ms. No. 69, dated 10.02.1987, relied on by the petitioners, does not in any way help their case and the

dispute is premature.

Further, the Labour Court, having verified the certificates produced by the petitioners, said to have been issued by a Steward, came to the conclusion that Steward is only in-charge of the Kitchen and he is not competent to issue such certificates, and in fact, the post of Steward is lying vacant during the strike period as per the evidence of M.W.1, and held that the petitioners are not entitled to any relief.

The awards of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, do not call for interference, for the petitioners failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

_____

N.V. RAMANA, J.

Date: 05.12.2006
Nsr/Sj